THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.22530 of 2005

-

Dated: 19.10.2005

Between:

Dodda Venkatapathi,

S/o.Narasimha Rao,

Hindu, aged about 50 years,

Occ:Cultivation,

R/o.Chintalamori,

Malikipuram Mandal, East Godavari District.

..... PETITIONER

AND

Election Authority,

District Co-operative Office,

Sahakar Bhavan, NFCL Road,

Kakinada, East Godavari District.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.22530 of 2005

ORDER:

-

The petitioner is a resident of Chintalamori Village, Malikipuram Mandal, East Godavari District. He also claims to be a member of Primary Agricultural Co-operative Society (PACS), Chintalamori, the second respondent herein. He seeks a writ of Mandamus declaring the inaction of the Election Authority, Sahakar Bhavan, Kakinada, in considering the petitioner's objections filed on 08.10.2005 and 10.10.2005, as illegal and violative of principles of natural justice.

The Government of Andhra Pradesh announced the elections to all Co-operative Societies in the State. The elections are to be held on 26.10.2005. As per the election programme, the last date for filing nominations and scrutiny of the same is on 18.10.2005 and 19.10.2005 respectively. The Government of Andhra Pradesh

amended the Andhra Pradesh Co-operative Societies Rules, 1964 (for short 'the Rules'), by issuing a notification vide G.O.Ms.No.223, dated 27.06.2005. As per these Rules, the list of eligible members who can vote in the elections has to be prepared by the Election Officer within three days from the date of his appointment, and within seven days thereafter, objections are to be raised for inclusion and exclusion of members from the voters list. The petitioner alleges that as per the amended Rules in G.O.Ms.No.223, dated 27.06.2005, the second respondent included persons who are not eligible to be members treating them as tenants of agricultural lands, though valid documents were not produced. The petitioner alleges that the second respondent included as many as 134 persons as members of the second respondent-Society. The petitioner, therefore, filed objections and also sent telegraphic notices on 08.10.2005 and 10.10.2005, in vain.

Heard the learned counsel for the petitioner and the learned Government Pleader for Co-operation. Both the learned counsel do not deny that when once the election process is set in motion by issuance of election notification, such election has to be conducted based on the final list of voters, and the Election Officer is not competent to amend the voters list. If any voters list is prepared contrary to the relevant Rules, the same has to be agitated in a properly instituted Election Petition before duly constituted Election Tribunal. The petitioner's counsel strenuously contends that the inclusion of 134 members, who were not eligible to be members of the second respondent-Society, is contrary to the Rules in G.O.Ms.No.223, dated 27.06.2005. That itself can be a ground for Election Petition, and the Writ Petition is not a proper remedy, especially, when the election notification is already issued.

The Writ Petition is therefore, dismissed. No costs.

_____

(V.V.S.RAO, J)

19.10.2005

vs